

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

DAVID DUVALL,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:19-cv-624-DSC
)	
NOVANT HEALTH, INC. ,)	
)	
Defendant.)	

**DEFENDANT NOVANT HEALTH, INC.'S
MOTION TO SET ASIDE PUNITIVE DAMAGES**

COMES NOW Defendant Novant Health, Inc. (“Novant Health”), by and through its undersigned counsel, pursuant to Rule 50(b) of the Federal Rules of Civil Procedure, and respectfully files this Motion to Set Aside Punitive Damages following its request at the close of Plaintiff’s case and at the close of all of the evidence at trial. (Doc. 117, 130:20-136:6, 141:20-144:15; Doc. 118, 16:13-17).

Novant Health’s Motion is amply supported. Based on the admissible evidence submitted at trial, there is not a legally-sufficient basis upon which a reasonable jury could award punitive damages as a matter of law because:

1. Plaintiff did not and cannot provide any evidence of “malice or reckless disregard” required to sustain the “extraordinary remedy” of punitive damages in the Fourth Circuit (*see Ward v. Autozoners*, 958 F.3d 254, 268 (4th Cir. 2020) (*quoting* 42 U.S.C. § 1981a(b)(1));

2. Novant Health’s good faith defense bars any punitive damages as a matter of binding Fourth Circuit law (*see Bryant v. Aiken Reg’l Med. Centers Inc.*, 333 F.3d 536, 548 (4th Cir. 2003));

3. The \$10 million dollar punitive damages award is grossly excessive, would result in a miscarriage of justice, and violates Due Process. *State Farm Mut. Auto. Ins. Co. v. Campbell*, 538 U.S. 408, 416, 123 S. Ct. 1513, 1519, 155 L. Ed. 2d 585 (2003) (prohibiting the imposition of grossly excessive or arbitrary punishments); *see also BMW of N. Am., Inc. v. Gore*, 517 U.S. 559, 574, 116 S. Ct. 1589, 134 L. Ed. 2d 809 (1996) (“fundamental to the due process analysis is whether the defendant received fair notice that the conduct in question was prohibited and what the potential penalty for engaging in that conduct could be.”)

4. Further, if the Court does not set aside the punitive damages award in its entirety, which is required as a matter of law, the \$10 million punitive award must be reduced to an amount no greater than \$300,000, as required by Title VII of the Civil Rights Act of 1964. Plaintiff has waived any rights to punitive damages under North Carolina law.

For the reasons set forth above, and those set forth in Novant Health’s Memorandum In Support of Motion to Set Aside Punitive Damages, filed herewith, Novant Health respectfully requests that the Court grant this Motion and reverse the jury’s award of punitive damages in its entirety. Novant Health also requests that the Court schedule oral argument on this Motion and enter findings of fact in ruling of this Motion.

(Signature block appears on the next page.)

Dated this 1st day of February, 2022.

s/ Benjamin R. Holland

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CERTIFICATE OF SERVICE

I, Benjamin R. Holland, hereby certify that I have this day electronically filed the foregoing **DEFENDANT NOVANT HEALTH, INC.'S MOTION TO SET ASIDE PUNITIVE DAMAGES** with the Clerk of Court using the CM/ECF system, which will send notification of the filing to the following person:

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Dated this 1st day of February, 2022.

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